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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,080	02/27/2002	Paul D. Unger	TOR6712	5420

7590 11/25/2003  
LINGBECK PATENT LAW OFFICE  
P.O. BOX 500  
ST. MICHAEL, MN 55376

EXAMINER

LEWIS, KIM M

ART UNIT PAPER NUMBER

3761

DATE MAILED: 11/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/084,080

Applicant(s)

UNGER ET AL.

Examiner

Kim M. Lewis

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 September 2002 and 15 July 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 February 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☒ Other: *Detailed Action*.

## **DETAILED ACTION**

### ***Change of Address***

1. The change of address papers filed on 9/17/02 and 7/15/03 have been received and made of record in the application file wrapper.

### ***Information Disclosure Statement***

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Specification***

3. The disclosure is objected to because of the following informalities: In the Brief Description of the Drawing section of the specification, the applicant has an incomplete description of Fig. 3. As such, the applicants should amend this section to include the following, --taken along the line 3-3 of Fig. 2--. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,245,630 ("Lloyd et al.").

As regards claims 1 and 3, Lloyd et al. disclose all features of the claimed invention including a wound dressing comprising: a support strip of material (1) having a body-attaching side; and also having adhesive (2) being disposed about and upon said body attaching side; a gauze pad member (5) being securely attached upon said body-attaching side of said support strip of material; at least one wound-healing agent being disposed upon said pad member; and protective strips (3a, 3b) of material being removably disposed over said body-attaching side including said pad member and said at least one wound-healing agent (col. 2, lines 40-62 , col. 4, 48-52, col. 5, lines 26-45 and Fig.1).

As regards claim 2, note the disclosure of perforations at col. 3, lines 8-43 and plastic material at col. 5, lines 27-45). As to the flexibility of the backing layer, the examiner contends that the disclosed plastic film material is inherently flexible given the embodiment in which it is used. Moreover, the composite strip is tearable and therefore must be flexible.

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***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd et al. in view of WO 01/41776 A2 ("Molan").

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As regards claim 4, Lloyd et al. fail to teach that the active agent is honey. However, Molan teaches the use of various types of honey on wound dressings for the healing of wounds. In view of Molan, it would have been obvious to substitute the active agent of Lloyd et al. for honey because of its use as an antimicrobial agent and because it conventionally known as an analgesic, particularly when used on burn wounds.

10. Claims 4<sup>-6</sup> and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lloyd et al. in view of U.S. Patent No. 6,171,604 ("Mousa").

As regards claim 4 and 5 Lloyd et al. fail to teach the active agent is honey. However, Mousa discloses honey preparations, which include whole honey (syrupy honey) and beeswax for use as therapeutic topical treatments (col. 3, line 44-col. 4, line 18).

It would have been obvious to one having ordinary skill in the art to substitute the active agent in Lloyd et al. for the active agent (honey and beeswax) disclosed in Mousa, since it is known from Mousa that honey is effective in treating a wide range of conditions including, but not limited to, burns, wounds, cold sores, viral infections, bacterial infections, fungal infections, acne, psoriasis, allergies, rashes, skin dryness dermatitis, poison ivy insect bites, and similar skin conditions (col. 3, lines 1-10).

Additionally, the applicant should note that beeswax is a wound sealing wax in that it can be used to seal a wound.

As regards claim 6, Lloyd et al. disclose a fabric protective sheet (col. 4, lines 48-52).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim M. Lewis whose telephone number is 703.308.1191. The examiner can normally be reached on Monday to Wednesday from 5:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 703.308.1957. The fax phone number for the organization where this application or proceeding is assigned is 703.872.9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.0858.

A handwritten signature in black ink, appearing to read 'Kim M. Lewis', with a stylized flourish at the end.

**Kim M. Lewis  
Primary Examiner  
Art Unit 3761**

kml  
November 23, 2003